

1 **R277. Education, Administration.**

2 **R277-200. Utah Professional Practices Advisory Commission (UPPAC),**
3 **Definitions.**

4 **R277-200-1. Authority and Purpose.**

5 ~~[A.](1)~~ This rule is authorized ~~[under]~~by:

6 ~~(a)~~ Utah Constitution Article X, Section 3, which vests general control and
7 supervision over public education in the Board~~;~~;

8 ~~(b)~~ ~~[by]~~Section 53A-6-306, which directs the Board to adopt rules regarding
9 UPPAC duties and procedures~~;~~; and

10 ~~(c)~~ ~~[by]~~Subsection 53A-1-401(3), which allows the Board to adopt rules in
11 accordance with its responsibilities.

12 ~~[B.](2)~~ The purpose of this rule is to establish definitions for terms in UPPAC
13 activities.

14 ~~[C.](3)~~ The definitions contained in this rule apply to ~~[r]~~Rules R277-200
15 through R277-20~~[6]~~7. Any calculation of time called for by these rules shall be
16 governed by Utah R. Civ. P. 6.

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18 **R277-200-2. Definitions.**

19 ~~[A](1)~~~~(a)~~ “Action” means a disciplinary action taken by the Board adversely
20 affecting an educator's license.

21 ~~(2)~~~~b~~ “Action” does not include a disciplinary letter.

22 ~~(3)~~~~c~~ “Action” includes:

23 ~~(a)~~~~i~~ a letter of reprimand;

24 ~~(b)~~~~ii~~ probation;

25 ~~(c)~~~~iii~~ suspension; and

26 ~~(d)~~~~iv~~ revocation.

27 ~~[B.](2)~~ “Administrative hearing” or “hearing” has the same meaning as that
28 term is defined in Section 53A-6-601.

29 ~~[C.](3)~~ “Alcohol related offense” means:

30 ~~(4)~~~~a~~ driving under the influence;

31 ~~(2)~~~~b~~ alcohol-related reckless driving or impaired driving;

32 ~~(3)~~~~c~~ intoxication;

([4]d) driving with an open container;
([5]e) unlawful sale or supply of alcohol;
([6]f) unlawful permitting of consumption of alcohol by minors;
([7]g) driving in violation of an alcohol or interlock restriction; and
(8) any offense under the laws of another state that is substantially equivalent to the offenses described in Subsections [R277-200-2C(1) through (7)](3)(a) through (g).

[D-](4) "Allegation of misconduct" means a written report alleging that an educator:

([1]a) has engaged in unprofessional or criminal conduct;
([2]b) is unfit for duty;
([3]c) has lost the educator's license in another state due to revocation or suspension, or through voluntary surrender or lapse of a license in the face of a claim of misconduct; or
([4]d) has committed some other violation of standards of ethical conduct, performance, or professional competence as provided in Rule R277-515.

[E-](5) "Answer" means a written response to a complaint filed by USOE alleging educator misconduct.

[F-](6) "Applicant" means a person seeking:
([1]a) a new license;
([2]b) reinstatement of an expired, surrendered, suspended, or revoked license; or
([3]c) clearance of a criminal background review from USOE at any stage of the licensing process.

[G- "Board" means the Utah State Board of Education.]

[H-](7) "Chair" means the Chair of UPPAC.

[I-](8) "Complaint" means a written allegation or charge against an educator filed by USOE against the educator.

[J-](9) "Complainant" means the Utah State Office of Education.

[K-](10) "Comprehensive Administration of Credentials for Teachers in Utah Schools (CACTUS)" means the electronic file developed by the USOE and maintained on all licensed Utah educators.

65 [E](11)(a) “Conviction” means the final disposition of a judicial action for a
66 criminal offense, except in cases of a dismissal on the merits.

67 ([2]b) “Conviction” includes:

68 ([a]i) a finding of guilty by a judge or jury;

69 ([b]ii) a guilty or no contest plea;

70 ([c]iii) a plea in abeyance; and

71 ([d]iv) for purposes of this rule, a conviction that has been expunged.

72 [M-](12) “Criminal Background Review” means the process by which the
73 Executive Secretary, UPPAC, and the Board review information pertinent to:

74 ([4]a) a charge revealed by a criminal background check;

75 ([2]b) a charge revealed by a hit as a result of ongoing monitoring; or

76 ([3]c) an educator or applicant’s self-disclosure.

77 [N](13)(a) “Disciplinary letter” means a letter issued to a respondent by the
78 Board as a result of an investigation into an allegation of educator misconduct.

79 ([2]b) “Disciplinary letter” includes:

80 ([4]i) a letter of admonishment;

81 ([2]ii) a letter of warning; and

82 ([3]iii) any other action that the Board takes to discipline an educator for
83 educator misconduct that does not rise to the level of an action as defined in this
84 [R277-200-2]section.

85 [Θ-](14) “Drug” means controlled substance as defined in Section 58-37-2.

86 [P-](15) “Drug related offense” means any criminal offense under:

87 ([4]a) Title 58, Chapter 37;

88 ([2]b) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

89 ([3]c) Title 58, Chapter 37b, Imitation Controlled Substances Act;

90 ([4]d) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

91 ([5]e) Title 58, Chapter 37d, Clandestine Drug Lab Act; and

92 ([6]f) Title 58, Chapter 37e, Drug Dealer’s Liability Act.

93 Sections 58-37 through 37e.

94 ~~[Q. “Educator” means a person:~~

95 ~~—— (1) who currently holds a license;~~

96 ~~—— (2) who held a license at the time of an alleged offense;~~

~~—— (3) is a person who is student teaching in anticipation of seeking a license;~~
~~—— (4) is an applicant for a license;~~
~~—— (5) is a licensure candidate through the Alternate Route to Licensure, “ARL,”~~
~~program; or~~
~~—— (6) who has applied to the Alternate Route to Licensure, “ARL” program.]~~

[R.](16) “Educator Misconduct” means:

([1]a) unprofessional or criminal conduct;

([2]b) conduct that renders an educator unfit for duty; or

([3]c) conduct that is a violation of standards of ethical conduct, performance,
or professional competence as provided in Rule R277-515.

[S.](17) “Executive Committee” means a subcommittee of UPPAC consisting
of the following members:

([1]a) Executive Secretary;

([2]b) Chair;

([3]c) Vice-Chair; and

([4]d) one member of UPPAC at large.

[T.](18) “Executive Secretary” means an employee of USOE who:

([1]a) is appointed by the State Superintendent of Public Instruction to serve
as the UPPAC Director; and

([2]b) serves as a non-voting member of UPPAC, consistent with Section
53A-6-302.

[U.](19) “Expedited Hearing” means an informal hearing aimed at determining
an Educator’s fitness to remain in the classroom held as soon as possible following
an arrest, citation, or charge for a criminal offense requiring mandatory self-reporting
under Section R277-516-3.

[V.](20) “Expedited Hearing Panel” means a panel of the following three
members:

([1]a) the Executive Secretary;

([2]b) a voting member of UPPAC; and

([3]c) a UPPAC prosecutor.

[W.](21) “Final action” means an action by the Board that concludes an
investigation of an allegation of misconduct against a licensed educator.

129 ~~[X-]~~(22) “GRAMA” refers to the Government Records Access and
130 Management Act, Title 63G, Chapter 2, Government Records Access and
131 Management Act.

132 ~~[Y-]~~(23) “Hearing officer” means a licensed attorney who:

133 ~~(1)~~a) is experienced in matters relating to administrative procedures;

134 ~~(2)~~b) is appointed by the Executive Secretary to manage the proceedings of
135 a hearing;

136 ~~(3)~~c) is not an acting member of UPPAC;

137 ~~(4)~~d) has authority, subject to the limitations of these rules, to regulate the
138 course of the hearing and dispose of procedural requests; and

139 (5) does not have a vote as to the recommended disposition of a case.

140 ~~[Z-]~~(24) “Hearing panel” means a panel of three or more individuals
141 designated to:

142 ~~(1)~~a) hear evidence presented at a hearing;

143 ~~(2)~~b) make a recommendation to UPPAC as to disposition; and

144 ~~(3)~~c) collaborate with the hearing officer in preparing a hearing report.

145 ~~[AA-]~~(25) “Hearing report” means a report that:

146 ~~(1)~~a) is prepared by the hearing officer consistent with the recommendations
147 of the hearing panel at the conclusion of a hearing; and

148 ~~(2)~~b) includes:

149 ~~(a)~~i) a recommended disposition;

150 ~~(b)~~ii) detailed findings of fact and conclusions of law, based upon the
151 evidence presented in the hearing, relevant precedent; and

152 ~~(c)~~iii) applicable law and rule.

153 ~~[BB-]~~(26) “Informant” means a person who submits information to UPPAC
154 concerning the alleged misconduct of an educator.

155 ~~[CC-]~~(27) “Investigator” means an employee of the USOE, or independent
156 investigator selected by the Board, who:

157 ~~(1)~~a) is assigned to investigate allegations of educator misconduct under
158 UPPAC supervision;

159 ~~(2)~~b) offers recommendations of educator discipline to UPPAC and the Board
160 at the conclusion of the investigation;

([3]c) provides an independent investigative report for UPPAC and the Board;
and

([4]d) may also be the prosecutor but does not have to be.

~~[DD:]~~(28) “Investigative report” means a written report of an investigation into allegations of educator misconduct, prepared by an Investigator that:

([1]a) includes a brief summary of the allegations, the investigator's narrative, and a recommendation for UPPAC and the Board;

([2]b) may include a rationale for the recommendation, and mitigating and aggravating circumstances;

([3]c) is maintained in the UPPAC Case File; and

([4]d) is classified as protected under Subsection 63G-2-305(34).

~~[EE:]~~(29) “LEA” or “local education agency” ~~[means a school district, charter school or,]~~for purposes of this rule[;] includes the Utah Schools for the Deaf and the Blind.

~~[FF:]~~(30) “Letter of admonishment” is a letter sent by the Board to an educator cautioning the educator to avoid or take specific actions in the future.

~~[GG:]~~(31) “Letter of reprimand” is a letter sent by the Board to an educator:

([1]a) for misconduct that was longer term or more seriously unethical or inappropriate than conduct warranting a letter of warning, but not warranting more serious discipline;

([2]b) that provides specific directives to the educator as a condition for removal of the letter;

([3]c) appears as a notation on the educator's CACTUS file; and

([4]d) that an educator can request to be removed from the educator's CACTUS file after two years, or after such other time period as the Board may prescribe in the letter of reprimand.

~~[HH:]~~(32) “Letter of warning” is a letter sent by the Board to an educator:

([1]a) for misconduct that was inappropriate or unethical; and

([2]b) that does not warrant longer term or more serious discipline.

~~[I:]~~(33) “License” means a teaching or administrative credential, including an endorsement, which is issued by the Board to signify authorization for the person holding the license to provide professional services in Utah’s public schools.

193 ~~[JJ:]~~(34) “Licensed educator” means an individual issued a teaching or
194 administrative credential, including an endorsement, issued by the Board to signify
195 authorization for the individual holding the license to provide professional services
196 in Utah's public schools.

197 ~~[KK:]~~(35) “National Association of State Directors of Teacher Education and
198 Certification (NASDTEC) Educator Information Clearinghouse” means a database
199 maintained by NASDTEC for the members of NASDTEC regarding persons whose
200 licenses have been suspended or revoked.

201 ~~[LL:]~~(36) “Notification of Alleged Educator Misconduct” means the official
202 UPPAC form that may be accessed on UPPAC's internet website, and may be
203 submitted by any person, school, or LEA that alleges educator misconduct.

204 ~~[MM:]~~(37) “Party” means a complainant or a respondent.

205 ~~[NN:]~~(38) “Petitioner” means an individual seeking:

206 ~~([1]a)~~ an educator license following a denial of a license;

207 ~~([2]b)~~ reinstatement following a license suspension; or in the event of
208 compelling circumstances, reinstatement following a license revocation.

209 ~~[OO:]~~(39) “Probation” is an action directed by the Board that:

210 ~~([1]a)~~ involves monitoring or supervision for a designated time period, usually
211 accompanied by a disciplinary letter;

212 ~~([2]b)~~ may require the educator to be subject to additional monitoring by an
213 identified person or entity;

214 ~~([3]c)~~ may require the educator to be asked to satisfy certain conditions in
215 order to have the probation lifted;

216 ~~([4]d)~~ may be accompanied by a letter of reprimand, which shall appear as a
217 notation on the educator's CACTUS file; and

218 ~~([5]e)~~ unless otherwise specified, lasts at least two years and may be
219 terminated through a formal petition to the Board by the respondent.

220 ~~[PP:]~~(40) “Prosecutor” means an attorney who:

221 ~~([1]a)~~ is designated by the Superintendent to represent the complainant and
222 present evidence in support of the complaint; and

223 ~~([2]b)~~ may also be the investigator, but does not have to be.

224 ~~[QQ:]~~(41) “Revocation” means a permanent invalidation of a Utah educator

license consistent with Rule R277-517.

~~[RR:]~~(42) “Respondent” means an educator against whom:

([1]a) a complaint is filed; or

([2]b) an investigation is undertaken.

~~[SS:]~~(43) “Serve” or “service,” as used to refer to the provision of notice to a person, means:

([1]a) delivery of a written document or its contents to the person or persons in question; and

([2]b) delivery that may be made in person, by mail, by electronic correspondence, or by any other means reasonably calculated, under all of the circumstances, to notify an interested person or persons to the extent reasonably practical or practicable of the information contained in the document.

(44) “Sexually explicit conduct” means the same as that term is defined in Section 76-5b-103.

~~[TT:]~~(45) “Stipulated agreement” means an agreement between a respondent and the Board:

([1]a) under which disciplinary action is taken against the educator in lieu of a hearing;

([2]b) that may be negotiated between the parties and becomes binding:

([a]i) when approved by the Board; and

([b]ii) at any time after an investigative letter has been sent;

([3]c) is a public document under GRAMA unless it contains specific information that requires redaction or separate classification of the agreement.

~~[UU. “Superintendent” means the State Superintendent of Public Instruction or the Superintendent’s designee.]~~

~~[VV:]~~([1]46)(a) “Suspension” means an invalidation of a Utah educator license.

([2]b) “Suspension” may:

([a]i) include specific conditions that an educator must satisfy; and

([b]ii) may identify a minimum time period that must elapse before the educator may request a reinstatement hearing before UPPAC.

~~[WW:]~~(47) “Utah Professional Practices Advisory Commission” or “[{]UPPAC[}]” means an advisory commission established to assist and advise the

257 Board in matters relating to the professional practices of educators, established in
258 Section 53A-6-301.

259 ~~[(XX)]~~(48) “UPPAC Background Check File” means a file maintained securely
260 by UPPAC on a criminal background review that:

261 ([1]a) contains information obtained from:

262 ([a]i) BCI; and

263 ([b]ii) letters, police reports, court documents, and other materials as provided
264 by an educator; and

265 ([2]b) is classified as private under Subsection 63G-2-302(2).

266 ~~[(YY)]~~(49) “UPPAC Case File” means a file:

267 ([1]a) maintained securely by UPPAC on an investigation into educator
268 misconduct;

269 ([2]b) opened following UPPAC's direction to investigate alleged misconduct;

270 ([3]c) that contains the original notification of misconduct with supporting
271 documentation, correspondence with the Executive Secretary, the investigative
272 report, the stipulated agreement, the hearing report, and the final disposition of the
273 case;

274 ([4]d) that is classified as protected under Subsection 63G-2-305(10) until the
275 investigation and any subsequent proceedings before UPPAC and the Board are
276 completed; and

277 ([5]e) that after a case proceeding is closed, is considered public under
278 GRAMA, unless specific documents contained therein contain non-public information
279 or have been otherwise classified as non-public under GRAMA, in which case the
280 file may be redacted or partially or fully restricted.

281 ~~[(ZZ)]~~(50) “UPPAC Evidence File” means a file:

282 ([1]a) maintained by the attorney assigned by UPPAC to investigate a case
283 containing materials, written or otherwise, obtained by the UPPAC investigator
284 during the course of the attorney's investigation;

285 ([2]b) that contains correspondence between the Investigator and the
286 educator or the educator's counsel;

287 ([3]c) that is classified as protected under Subsection 63G-2-305(10) until the
288 investigation and any subsequent proceedings before UPPAC and the Board are

completed; and

([4]d) that is considered public under GRAMA after case proceedings are closed, unless specific documents contained therein contain non-public information or have been otherwise classified as non-public under GRAMA.

~~[AAA.](51)~~ “UPPAC investigative letter” means a letter sent by UPPAC to an educator notifying the educator that an allegation of misconduct has been received against him and that UPPAC or the Board has directed that an investigation of the educator’s alleged actions take place.

~~[BBB.](52)~~ “UPPAC Prosecutor File” means a file:

([1]a) that is kept by the attorney assigned by UPPAC to investigate and/or prosecute a case that contains:

([a]i) the attorney’s notes prepared in the course of investigation; and

([b]ii) other documents prepared by the attorney in anticipation of an eventual hearing; and

([2]b) that is classified as protected pursuant to Subsection 63G-2-305(18).

~~[CCC. “USOE” means the Utah State Office of Education.]~~

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